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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,283	10/20/2003	Thomas E. Valiulis	502454	3164

53609 7590 02/28/2006

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EXAMINER

HOGE, GARY CHAPMAN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/689,283	VALIULIS, THOMAS E.	
	Examiner	Art Unit	
	Gary C. Hoge	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-9 and 13 is/are allowed.
- 6) ☒ Claim(s) 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (6,408,553).

Brown discloses a labeling system comprising a merchandiser **14**, a label holder **12** mounted to the merchandiser, the label holder **12** including means **12a**, **12b** for supporting one or more labels without an adhesive bond; a friction coated label **10** removably secured to the label holder by the support means, the label including a face stock and a friction coating **22**, the face stock having printed indicia thereon relating to the merchandise, the friction coating disposed between the face stock and the label holder to inhibit migration of the label relative to the label holder (col. 1, lines 60-64). The label holder is a C-channel label holder, as recited. However, it is not known what sort of adhesive is used. Because it is within the level of ordinary skill of a worker in the art to select from among known materials on the basis of their suitability for the fabrication of a given device, and since a person having ordinary skill in the art would know that a solvent-based adhesive would be suitable for the fabrication of an adhesive for a label, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the label disclosed by Brown from solvent-based adhesive as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

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3. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wildrick (6,263,603) in view of Brown et al. (6,408,553).

Wildrick discloses a labeling system comprising a merchandiser **10**, a label holder mounted to the merchandiser, the label holder including means **14**, **16** for supporting one or more labels without an adhesive bond; a label **18** removably secured to the label holder by the support means, the label including a face stock, the face stock having printed indicia thereon relating to the merchandise. The label holder is a plastic tag holder having a generally planar label pocket defined between two generally co-planar plastic panels. However, Wildrick does not disclose friction-coating the label. Brown teaches that it was known in the art to apply adhesive to the back of a label in order to keep it from migrating relative to the label holder (col. 1, lines 60-64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the label disclosed by Wildrick with adhesive, as taught by Brown, in order to keep the label from sliding around in the label holder. Further, it is not known what sort of adhesive is used. Because it is within the level of ordinary skill of a worker in the art to select from among known materials on the basis of their suitability for the fabrication of a given device, and since a person having ordinary skill in the art would know that a solvent-based adhesive would be suitable for the fabrication of an adhesive for a label, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the label disclosed by Wildrick from solvent-based adhesive as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

Allowable Subject Matter

4. Claims 2-9 and 13 are allowed.

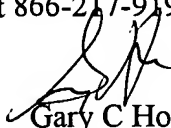
Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary C Hoge
Primary Examiner
Art Unit 3611

gch